

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8696 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT AMBUJA EXPORTS LTD.

Versus

UNION OF INDIA

Appearance:

M/S TRIVEDI & GUPTA for Petitioners
MR AKSHAY H MEHTA for Respondent No. 1
MR MUKESH R SHAH for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/09/2000

ORAL JUDGEMENT [Per : B.C. Patel, J.]

#. Rule. Mr. Akshay Mehta and Mr. Mukesh R. Shah, learned counsel waive service of rule on behalf of respondent nos. 1 and 2 respectively.

#. At the request of the learned advocates, we have taken up this matter for final hearing today.

#. By filing this petition, the petitioner has prayed for issuance of writ of mandamus or a writ in the nature of certiorari or any other order or direction quashing and setting aside the order made by the Central Excise & Gold (Control) Appellate Tribunal on 14.2.2000.

#. Looking to the nature of the prayer and the controversy, we are not required to go into the facts and circumstances of the case. It appears that the petitioner wrongly approached the Forum by making a revision application which was disposed of on or about 9.6.99. The petitioner moved the Tribunal on or about 23.8.99. by way of an appeal. In view of the delay caused by the appellant in preferring an appeal, the said appeal came to be dismissed.

#. In para 9 of the order, the Tribunal has observed as under.

"We have considered the entire aspects of the case. It is not as if the entire material was not before the lower authority viz. certificate given by the Range Supdt. regarding payment of duty in respect of HDPE bags which have been used for packing the exported material viz, maida. The case appears to be a very strong but yet in a case of such a strong nature and the amount involved is of Rs. 12 lakhs, the application of the condonation of delay does not mention anything about the reason for delay, in our considered view, we cannot accede to the request for excusing the delay."

#. It is true that the petitioner ought to have approached the Tribunal within a reasonable period after the revision application was dismissed. However, in view of the fact that the Tribunal itself found at that stage that it is a strong case, the Tribunal if examines the matter on merits, ends of justice will be served. But at the same time, the petitioner is inclined to pay the costs to the Revenue. Considering the facts and circumstances of the case, Mr. Shah submitted that if heavy costs is awarded, the ends of justice would be met with. We therefore direct that a sum of Rs. 15,000/- by

way of costs be deposited within a period of 3 weeks and on production of receipt thereof, the Tribunal shall hear the appeal on merits. This petition is accordingly allowed and Rule is made absolute.

pirzada/-